

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JUNELL MOBLEY,

Plaintiff,

Case No. 4:05-cv-153

v.

Hon. Wendell A. Miles

WILLIAM SMITH, et al.,

Defendants.

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**ORDER**

This matter is before the Court on Plaintiff's Motion for Partial Summary Judgment. (Dkt. #21). Plaintiff initiated the present action on December 30, 2005, asserting various claims, including the claim that he was temporarily denied access to the kosher meal program in violation of his First Amendment right to freely exercise his religion. With respect to this particular claim, Plaintiff now moves for partial summary judgment as to Defendants Smith, Norwood, and Caruso. For the reasons articulated herein, Plaintiff's motion is **denied**.

Plaintiff is entitled to summary judgment only if he can demonstrate that there exist "no genuine issue[s] as to any material fact" and, furthermore, that he is "entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). On a Rule 56 motion, the Court cannot try issues of fact, but is empowered to determine only whether there exist issues in dispute to be decided in a trial on the merits. *See Perez v. Aetna Insurance Co.*, 96 F.3d 813, 819 (6th Cir. 1996). The crux of the motion is "whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 251-52 (1986). A motion for summary judgment requires the Court to view "inferences to be drawn

from the underlying facts...in the light most favorable to the party opposing the motion.” *Matsushita Electric Ind. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

Aside from reiterating the allegations in his complaint, Plaintiff has submitted no evidence in support of his motion. The Court further notes that Defendants have not yet answered Plaintiff’s complaint. In sum, Plaintiff has failed to demonstrate that there exist no genuine issues of material fact in dispute. Accordingly, Plaintiff’s motion is **denied**.

IT IS SO ORDERED.

Date: October 12, 2006

/s/ Wendell A. Miles  
Wendell A. Miles  
United States District Judge